
**Criminal Justice & Corrections
Committee**

HB 2967

Brief Description: Responding to drug crimes.

Sponsors: Representatives Green, Sells, Appleton, McCoy, P. Sullivan, Kenney and Takko.

Brief Summary of Bill

- Establishes pilot enforcement areas in three regions of the state for the purpose of the enforcement of illegal drug laws.
- Expands the term "drug court" to include courts whose jurisdiction is conferred over juvenile offenders.
- Requires the Department of Community, Trade, and Economic Development to review various funding sources to determine whether funding is adequate to accomplish the mission of the meth action teams.
- Clarifies that all sentence enhancements relating to violations of the Uniform Controlled Substance Act in drug free zones are to be run consecutively to all other sentencing provisions.
- Provides that offenders participating in the Drug Offender Sentencing Alternative (DOSA) program are only eligible for 33 percent earned release time.
- Requires the courts to request chemical dependency screening reports before imposing a sentence upon a defendant that has been convicted of "any" type of a felony where it is found that the offender has a chemical dependency that contributed to his or her offense.
- Requires the courts to order pre-sentence reports for all felony offenders.
- Requires the Washington State Institute for Public Policy (WSIPP) to study criminal sentencing provisions in other states for all crimes involving methamphetamine.
- Requires the WSIPP to conduct a study of the DOSA program to determine its impact on recidivism.

Hearing Date: 1/20/06

Staff: Yvonne Walker (786-7841).

Background:

I. Drug Courts. Drug courts, unlike traditional courts, divert non-violent drug criminals into court-ordered treatment programs rather than jail or prison. The program allows defendants arrested for drug possession to choose an intensive, heavily supervised rehabilitation program in lieu of incarceration and a criminal record.

The term "drug court" is defined as a court that has special calendars or dockets designed to achieve a reduction in recidivism and substance abuse among non-violent, substance-abusing offenders by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic drug testing; and the use of appropriate sanctions and other rehabilitation services.

II. Department of Community, Trade, and Economic Development (DCTED). The DCTED is responsible for assisting in community and economic development in the state; providing technical and financial assistance to local governments, businesses, and community-based organizations; soliciting private and federal grants for economic and community development programs; and conducting research and analysis to support economic and community development efforts.

III. Drug Free School Zones. If an offender is sentenced for committing certain violations of the Uniform Control Substance Act (UCSA) in a drug free protected zone, a two-year sentence enhancement may be added to the offender's sentence. A person is subject to enhanced sentencing if he or she manufactures, sells, delivers, or possesses with intent to manufacture, sell, or deliver, a controlled substance in public areas such schools, school buses, school bus stops, school grounds, public parks, public housing projects designated as drug free zones, public transit vehicles, public transit stop shelters, or civic centers designated as a drug free zones. In addition, the maximum imprisonment sentence and fine may be increased up to double the amount imposed for the underlying conviction.

In *State v. Jacobs*, 120 Wn. App. 1059 (2004), the defendants challenged the statutory language regarding the sentence enhancements for violations of the UCSA on the grounds that they believed multiple sentence enhancements should be applied concurrently instead of consecutively. The courts concluded that the statutory language appeared ambiguous and as a result, under the rule of lenity, it was ruled that sentencing courts should apply multiple sentencing enhancements concurrently to each other.

IV. Earned Early Release Time (Good Time). An offender convicted of a serious violent offense or a class A felony sex offense, on or after July 1, 2003, may obtain earned release time. Such an offender may not have his or her term reduced by more than 10 percent via earned release time.

Certain other offenders can have their confinement reduced by up to 50 percent. The DOC must perform a risk assessment of eligible offenders and classify them into four risk groups. An offender may have his or her term of confinement reduced by up to 50 percent via earned early release time if he or she:

- is classified in one of the two lowest risk categories;

- is confined for an offense other than a violent offense; a sex offense; manufacture, delivery, or possession with intent to deliver methamphetamine (or an attempt, solicitation, or conspiracy to do so); delivery of a controlled substance to a minor (or an attempt, solicitation, or conspiracy to do so); a crime against persons; a felony domestic violence offense; or residential burglary; and
- has no prior conviction for any of these offenses.

An offender incarcerated for any other offense may not have his or her term of confinement reduced by more than 33 percent via earned release time.

Offenders participating in the Drug Offender Sentencing Alternative (DOSA) program are eligible for 50 percent earned release time. The DOSA is an alternative sentencing program that allows a court to waive imposition of an offender's sentence within the standard sentencing range and instead the offender is required to complete a substance abuse assessment and receive, within available resources, substance abuse treatment and counseling.

V. Sentencing Hearing. Before imposing a sentence upon a defendant, the court must conduct a sentencing hearing. As part of that sentencing hearing, the court must order the Department of Corrections (DOC) to complete a chemical dependency screening report before imposing a sentence if the defendant has been convicted of a violation (or a criminal solicitation to commit a violation) of the UCSA. Generally the reports are ordered any time the court finds that the offender has a chemical dependency that contributed to his or her offense.

In addition, the court must order the DOC to complete a pre-sentence report before imposing a sentence if the defendant has been convicted of a felony sex offense. The DOC must give priority to completing those pre-sentence investigations that are for sex offenders.

VI. Washington State Institute for Public Policy. The WSIPP carries out non-partisan research at the direction of the Legislature. Various studies over the years have centered around the following issues: education, criminal justice, welfare, children and adult services, health, utilities, and general government. Fiscal and administrative services for the WSIPP are provided by The Evergreen State College.

Summary of Bill:

The Legislature intends to provide a minimum of \$4 million for an annual combined level of state and federal funding for multijurisdictional drug task forces and local government drug prosecution assistance.

The Legislature further intends to provide assistance for jurisdictions enforcing illegal-drug laws who have historically been underserved by federally funded state narcotics task forces and are considered to be major transport areas of narcotics traffickers.

Beginning July 1, 2006, three pilot enforcement areas are established for a period of four fiscal years. The enforcement areas will be located in three regions of the state which include the southwestern region (comprising of Pacific and Wahkiakum counties), southeastern region (Walla Walla, Columbia, Garfield, and Asotin counties), and the northeastern region (comprising of Stevens, Ferry, and Pend Oreille counties).

The Legislature intends to provide a minimum of \$1.125 million annually, to be divided equally between the three pilot enforcement areas. This funding is intended to provide a minimum of three additional sheriff deputies for each pilot area, a deputy prosecutor who will support the counties who are included in the pilot area, and court clerk and clerical staff to serve the pilot area. Counties are encouraged to utilize drug courts and treatment programs and to share resources that operate in the region through the use of interlocal agreements. Funding appropriated for the pilot programs must be used for the enforcement of illegal drug laws and cannot be used to supplant existing funding.

The Criminal Justice Training Commission must allocate funds to the Washington Association of Prosecuting Attorneys (WAPA) and the Washington Association of Sheriffs and Police Chiefs (WASPC). The WAPA is responsible for the administration of the funding and programs for the prosecution of crimes and court proceedings. The WASPC is responsible for the administration of the funds provided for law enforcement.

The WASPC, the WAPA, and the Washington Association of County Officials must jointly develop measures to determine the efficacy of the pilot programs. These measures include a comparison of arrest rates before the implementation of the pilot program and after, the reduction of recidivism, and any other factors that are determined to be relevant to evaluating the programs. The results of the study must be presented to the Legislature by December 1, 2008.

I. Drug Courts. The term "drug court" is expanded to include those courts whose jurisdiction includes juvenile offenders.

II. Department of Community, Trade, and Economic Development (DCTED). The DCTED is charged with reviewing federal, state, and local funding sources and levels available to local meth action teams through the Washington State Methamphetamine Initiative to determine whether funding is adequate to accomplish the mission of the meth action teams. The DCTED must also review the funding levels for individual drug task forces in Washington to determine if they require additional resources to successfully interdict drug trafficking organizations and clandestine labs statewide. A report on their findings and recommendations must be submitted to the Legislature by November 1, 2006.

III. Drug Free School Zones. Statutory language is clarified to specify that all sentence enhancements relating to violations of the UCSA in drug free zones are to be run consecutively to all other sentencing provisions for all sentences under the Sentencing Reform Act.

IV. Earned Early Release Time (Good Time). Offenders participating in the DOSA program are not eligible for 50 percent earned release time. Offenders will instead be eligible for 33 percent earned release time.

V. Sentencing Hearing. The court must order the DOC to complete a chemical dependency screening report before imposing a sentence upon a defendant that has been convicted of "any" type of a felony where the court finds that the offender has a chemical dependency that contributed to his or her offense. The court must also order the DOC to complete a pre-sentence report for all felony offenders. However, the DOC must continue to give priority to completing those pre-sentence investigations that are for sex offenders.

VI. Washington State Institute for Public Policy. The WSIPP must conduct a study of criminal sentencing provisions of neighboring states for all crimes involving methamphetamine. The

report must include any criminal sentencing increases necessary under Washington law to reduce or remove any incentives methamphetamine traffickers and manufacturers may have to locate in Washington. The report must be completed and submitted to the Legislature by January 1, 2007.

The WSIPP must also conduct a study of the DOSA program to determine its impact on recidivism. The WSIPP must study the success rate of the sentencing alternative for different types of crimes and whether offenders who received substance abuse treatment while in confinement were more or less successful than offenders who received treatment in the community or received no treatment. The WSIPP must report its findings to the Legislature by January 1, 2007.

Appropriation: None.

Fiscal Note: Requested on January 17, 2006.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.